

The Regulatory Fairness Act (RFA) requires agencies to prepare a Small Business Economic Impact Statement (SBEIS) if the proposed rule will impose a more-than-minor cost on businesses in an industry. For agencies other than the Department of Social and Health Services, a minor cost is defined as the greater of: 0.3 percent of revenue or \$100, or 1 percent of payroll.

A minor-cost threshold calculator was developed to help agencies determine what level of cost to business would exceed 1 percent of payroll or 0.3 percent of revenue. The calculator is split into two sections to include **Non-Agricultural Industries** and **Agriculture, Farming, Fishing and Forestry**.

Non-Agricultural Industries

The U.S. Census Bureau's Economic Census of the United States provides payroll and revenue by industry for non-agricultural industries. The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS organizes the business establishments into industries according to similarity in the processes used to produce goods or services and these specific business industries are identified by a 4 or 6 digit number called a NAICS code. The minor-cost threshold calculator spreadsheet uses this NAICS code to produce data that reflects the 1 percent of payroll or 0.3 percent of revenue for the businesses in the affected industries.

Agriculture, Farming, Fishing and Forestry

For agricultural industries, payroll information from the U.S. Department of Labor's Quarterly Census of Employment and Wages was used. This calculator uses the U.S. Department of Labor's Quarterly Census of Employment and Wages (QCEW), which does not include data on revenue. The QCEW will work for any industry and is subject to data limitations similar to those in the Economic Census of the United States and is an acceptable source for non-agricultural agencies. It was decided not to use it across the board because it does not include an estimate of annual revenues.

Instructions for using the calculator are posted in the minor-cost threshold calculator spreadsheet but are also described below.

To use the minor cost threshold calculator, agency staff take the following steps:

1. Open the calculator, which is an Excel spreadsheet, and enter the "Industry Description" in the first column. Add rows for all industries that will be subject to the proposed regulation. Note: the spreadsheet will show errors in all cells at first until the next step is completed.
2. Look up the 4- or 6-digit North American Industry Classification System (NAICS) code that applies to the first industry in the list, and enter it in the second column, titled "Industry 4- or 6-digit 2012 NAICS Code."
3. The third column, "NAICS Code Definition," populates automatically. The first and third columns should be similar to each other. If they are very different, and the NAICS code does not at all describe the industry being regulated, check the code number you selected and consider others until you find a close match.
4. Once the NAICS code is filled in, the calculator will populate all remaining fields.
5. You now have the data needed to choose the threshold for comparing more-than- or less-than-minor costs to businesses in the columns titled *1% of Avg Annual Payroll* and *0.3% of Avg Annual Revenue*.
6. If 0.3 percent of average annual revenue in the industry is less than \$100, then you should use \$100 per business as the definition of a minor cost. This is an unlikely scenario, but represents the appropriate time to use a threshold of \$100 to compare the costs of the regulation against. Agencies may always choose to use 1 percent of annual payroll as the threshold.
7. It may be that a field does not fill in for any given industry. This will be reflected with a data result of a *#value!* In the cell. This is because the U.S. Census suppresses some data for confidentiality reasons in industries with a small number of businesses. If this happens, you should use whichever threshold can be calculated. For example, if the rule regulates medical equipment manufacturers – NAICS Code 3391 – annual revenues cannot be calculated, but payroll can. In this case, you would use the payroll number for the definition of minor costs.
8. If both the revenue and payroll are suppressed, then you must find a different source for the necessary information, including other data sets and working with businesses.

THE NCAIS and QCEW DATA IN THE CALCULATOR WILL BE UPDATED AS THE NEW INFORMATION BECOMES AVAILABLE.